

The Honorable Ronald B. Leighton

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STORMANS, INCORPORATED, et al.,
Plaintiffs,

vs.

MARY SELECKY, Secretary of the Washington
State Department of Health, et al.,

Defendants,

and

JUDITH BILLINGS, et al.,

Intervenors.

Civil Action No. C07-5374 RBL

DECLARATION OF STEVEN T.
O'BAN

I, STEVEN T. O'BAN, declare and state:

1. I am over eighteen years of age and make this declaration on personal knowledge.

2. I am one of the attorneys representing the Plaintiffs in the above action. I have personal knowledge of the facts set forth herein, and am competent to testify thereto.

DECLARATION OF STEVEN T. O'BAN
(C07-5374) - 1

*126882 (13438.00)

ELLIS, LI & MCKINSTRY PLLC
Attorneys at Law
2025 First Avenue, Penthouse A
Seattle, WA 98121-3125
206•682•0565 Fax: 206•625•1052

1 3. Plaintiffs filed the Complaint on July 25, 2007 and amended it the next day,
2 July 26, 2007. Trial is currently set for November 28, 2011.

3 4. On April 21, 2011, I received an email from Thomas L. Boeder, attorney for
4 Intervenor Defendants, indicating that Intervenor Defendants do not oppose Plaintiffs'
5 proposed Second Amended Complaint. Defendant State indicated by email that it opposes the
6 amendment.

7 5. Attached to this declaration are true and correct copies of the following
8 exhibits:

9 Exhibit A: Plaintiffs' proposed Second Amended Complaint in
10 redline format;

11 Exhibit B: Press release from the US Food and Drug
12 Administration, dated August 13, 2010;

13 Exhibit C: Excerpt from the drug manufacturer website for *ella*
14 (<http://www.ellainfo.com/>) entitled, "3 Easy Ways to
15 Get *ella*?"; and

16 Exhibit D: Excerpt from the drug manufacturer website for *ella*
17 (<http://www.ellainfo.com/>) entitled, "NEW *ella* Has the
18 Power to Help Keep These 2 Apart."

19 I declare under penalty of perjury under the laws of the State of Washington that the
20 foregoing is true and correct.

21 Signed this 28th day of April, 2011 in Seattle, WA.

22
23 s/ Steven T. O'Ban
 Steven T. O'Ban